

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BARRY LOUIS LAMON,

Plaintiff,

v.

MCTAGGART, *et al.*,

Defendants.

Case No. 1:22-cv-01421-KES-BAM (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR LEAVE TO FILE A THIRD AMENDED
COMPLAINT WITHOUT PREJUDICE
(ECF No. 53)

ORDER STRIKING PLAINTIFF'S LODGED
THIRD AMENDED COMPLAINT
(ECF No. 54)

Plaintiff Barry Louis Lamon ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This action was removed from Kings County Superior Court on November 3, 2022. (ECF No. 1.)

On November 6, 2025, the Court screened the second amended complaint and granted Plaintiff leave to file a third amended complaint. (ECF No. 52.) Plaintiff was directed to "file an amended complaint, **limited to twenty (20) pages in length**, curing the deficiencies identified by the Court" in the screening order, within thirty (30) days of service of that order. (*Id.*) Plaintiff's third amended complaint is therefore due on or before December 9, 2025.

Currently before the Court is Plaintiff's motion for leave to file a third amended complaint, together with a proposed third amended complaint, filed November 10, 2025. (ECF Nos. 53, 54.) The filings include a proof of service dated November 5, 2025. (ECF No. 54, p. 27.) The proposed third amended complaint is twenty-six (26) pages in length. (ECF No. 54.)

1 Defendants have not yet had an opportunity to file a response to Plaintiff's motion, but the Court
2 finds a response unnecessary. Plaintiff's motion is deemed submitted. Local Rule 230(l).

3 Although the Court has already granted Plaintiff leave to file a third amended complaint, it
4 appears Plaintiff's motion was mailed prior to the Court issuing its screening order on the second
5 amended complaint. In order for Plaintiff to have time to review the Court's screening order,
6 cure the identified deficiencies in the second amended complaint, and to comply with the Court's
7 page limitations for any third amended complaint, the Court finds it appropriate to deny
8 Plaintiff's motion for leave to file a third amended complaint, without prejudice. The proposed
9 third amended complaint will be stricken for failure to comply with the Court's twenty-page
10 limitation, and the Court will reset the deadline for Plaintiff to comply with the Court's screening
11 order.

12 Based on the foregoing, IT IS HEREBY ORDERED as follows:

- 13 1. Plaintiff's motion for leave to file a third amended complaint, (ECF No. 53), is DENIED,
14 without prejudice;
- 15 2. Plaintiff's proposed third amended complaint, (ECF No. 54), is STRICKEN;
- 16 3. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file an
17 amended complaint, **limited to twenty (20) pages in length**, curing the deficiencies
18 identified by the Court's November 6, 2025 screening order (or file a notice of voluntary
19 dismissal); and
- 20 4. **If Plaintiff fails to comply with this order, the Court will recommend dismissal of**
21 **this action, with prejudice, for failure to obey a court order and for failure to**
22 **prosecute.**

23
24 IT IS SO ORDERED.

25 Dated: November 12, 2025

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE
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